App. F. IX-4

Previous References

192 / .

(Legn)

File No. 32-15.

Serial Nos.

Later References

General and Revenue Secretariat.

Preserve
Dy 307/29

Serial Nos.

Part B for Jany 1929

SUBJECT

Amendment of Criminal procedure
Code to as to require witnesses
to sign their depositions in all cases

File

R.J. Gyanter
24-1-29

(For disposal by circulation)

No. C. 177

18 . 2 . 1916

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

(Clause ii of the Schedule).

Amendment of sub section (i) of section 360 of the code of Criminal Procedure, 1904, so as to require witnesses to sign their depositions in all cases.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

18th February 1916.

Secretary to Government.

Extraordinary Member of Council.

First Member of Council. Seen by the First Member of Council.

Second Member of Council. Seen by the 2nd member of Council

WD 2012—GPB—1 000—9-2-16

G. R. S. 11] 1915-16

GENERAL AND REVENUE SECRETARIAT.

(Legis.)

NOTES.

File No. 32-15

FILE HEADING.

Amendment of the Code of Criminal Procedure, 1904

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

J. His. 812-15

Extract from notes in Cls 265-14 (R.A. subject-no 426-14 re taking the signatures of witnesses to their depositions.

"(4). The General opinion of all the Judges seem to be that no change in the existing

NOTES—First Sheet.

GPB-20,006—8-8-14

Serial No.

law is necessary and that the magistrates' or judges' certificate is a sufficient guarantee of its correctness. It ~~se~~ appears that this is the proper view to take. Apparently it is upon this ground that the Legislature has found it unnecessary to make any provision for obtaining the signatures of witnesses.

5) ~~A do~~ × × ×

6) The chief Judge thinks that on principle there may be no objection to get the witnesses to sign their depositions. This will be an idle formality in the case of the witnesses who are illiterati. Their mere thumb impressions will not be a guarantee of their correctness. It also appears that if a change is necessary, an executive order may suffice. In Madras criminal Rules of Practice, an executive order is to be found to this effect, and Mr. Wallace must have this in view when he expressed that such signatures should invariably be taken (vide Rule 48 in S.K. Chettiar's Criminal Rules of Practice).

Initd G.S. 22/3

NOTE—Contn. sheet.

GPB—20,000—30-6-15

First Member)

Serial No.

7. I am inclined to comply with this demand. Of course the rule will not apply to Small Cause or Summary trials.

8. If this is agreed to, the Chief Court may again be consulted as to whether the object may not be achieved by prescribing rules of practice, as this injunction would be merely supplementary to the provisions of the code.

May be settled at a meeting

(Sd) H. V. N.
23/3/15

Dewan).

9. This may be considered at a meeting of Council

Sd H. V.
5/4

Council

The Chief Court may be consulted as proposed by the Dewan

Sd D. H. N.
24/5/15

Letter No. 1081/79 dated 26th Aug. 1915 From the Registrar Chief Court of Mysore to the Secy to Govt Gen. Dept

" Adverting to your letter No 9678

NOTE—Contn. sheet.

GPB—20,000—30-6-15

G. R. S. 12]

General and Revenue Secretariat. Legis File No. of 191

Serial No.

Cts 265-14-3 dated the 10th instant requesting to forward the Govt with the opinion of this Court as to whether the request of a member of the R. A. in the matter of the signature of witnesses being taken to their depositions may not be complied with by prescribing new practice, I am directed to state that the Judges do not think that the proper function of a rule of practice is to supplement the provisions of the code.

× × ×

In the Criminal Procedure Code section 554(e) may perhaps provide power to make a rule like that proposed, but it is obviously inconvenient where chapter XXV gives detailed instructions for the recording of evidence that a magistrate should have to look outside that chapter to be sure of his ground and the Judges are not therefore prepared to frame a rule. They are of opinion that the amendment of

NOTE—Contn. sheet.

GPB—20,000—30-6-15

G. R. S. 12]

General and Revenue Secretariat. File No. of 191

Serial No.

the code would be simpler and far more useful in practice, ~~took~~

× × ×

15) We may accept the opinion of the chief court on the question of necessity to amend the code. The main question may be considered at a meeting.

Init. H. V. N. 4/10/15

Dewan)

I agree

Init. M. M 30/10/15

Extract from the proceedings of the 365th meeting of the Council of His Highness the Maharaja

Subject :- (clause VII of the schedule)

Question of requiring witnesses to sign their depositions both in civil and criminal cases.

× × ×

Final note by the Vice-President of Council

Subject :- Question of requiring witnesses to sign their depositions both in Civil

NOTE—Contn. sheet.

GPB—20,000—30-6-15

Serial No.

and criminal cases. I was inclined to comply with this demand. The rule will not apply to Small Cause or Summary trials. The chief Court was consulted as to whether the object may not be achieved by prescribing Rules of Practice as this injunction would be merely supplementary to the provisions of the code. The Judges consider that legislation is necessary though they are of opinion that the requisite change is unnecessary. The matter was considered by the Council who are of opinion that legislation may be undertaken to require witnesses to sign their depositions both in civil and criminal cases.

The resolution of the Council may be graciously approved

Intd. H. V. N.
25/11/15

Subd. to His Highness

I submit herewith a final note by the First Member of Council on the question of requiring witnesses to sign their depositions both in civil

NOTE—Contn. sheet.

GPB—20,000—30-6-15

Serial No.

and criminal cases.

2. The resolution of the Council that legislation may be undertaken in order to require witnesses to sign their depositions may graciously be approved.

Init. M.V.
31/11/15

Order of His Highness

K.R.W.

7/12/15

× × ×

Legis. Section

Action may be taken

Init. E.S.
9/12/15

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 32 of 191 S~16

Serial No.

Sch. matter

1) Subd. with a draft. Bill amending sec: 360(1) of the Code of Criminal Procedure

23/12/15

2) Submitted for approval

Hd

Dist. Member)

3) Draft approved by 1st Member

Dmcy 25/1

27/1

2) Action is a Schedule case, it to Submitted for favour of orders ~~for~~ as to circulation for consideration at a meeting.

25/1

3909

27.1.16

Dmcy 27/1

Subd/ Secretary)

5) The draft Bill is approved.

6) Please circulate to Council and return with a draft note of submission.

14.2.16

7) C.S. 15/2

22/2

NOTE—Contn. sheet.

GPB—20,000—30-6-15

G. R. S. 12]

General and Revenue Secretariat.

Pol 8/2/16

Pol. File No. 32 of 1915. 9

Serial No.	
	8) Ger & J IV
Ger 23/2	Pol 22/2/16
	9) Draft Note / Submission to Sub
	Ser / Pol 24/2/16
	D Thom

4507
25.2.16

NOTE—Contn. sheet.

GPB—70,000—17-12-15

Submitted to His Highness.

Q

In the Representative Assembly of 1913 (subject No.426) it was urged that witnesses should be required to sign their depositions both in Civil and Criminal cases.

2. As the request seemed reasonable the Chief Court was consulted as to whether the object might not be achieved by prescribing Rules of practice as this injunction would be merely supplementary to the provisions of the Code. But th Judges considered that legislation was necessary. It was thereupon ordered that legislation might be undertaken in this behalf.

5 of Min notes

3. Accordingly action to amend the Civil Procedure Code, 1911, is being taken separately and a Bill to amend Section 360 (1) of the Code of Criminal Procedure, 1904, has been prepared which has been approved by the Members of the Council.

h.8 of office notes

J

If approved the Bill will be placed before the Legislative Council.

H Manjunadayya

29/2/16

Ghis 812-15

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Amendment of sub section (i) of section 360 of the code of Criminal Procedure, 1904, so as to require witnesses to sign their depositions in all cases.

8/3

Order.

~~KRW~~

7/3/16

Secretary

8.3.16

Draft & Rules

Notification

Amendment

for publication

Secretary

Vide Courts file

264-1914-15

Draft & Rules

Notification

Amendment

for publication

Bill further to a
the Code of Crimina
Procedure, 1904

Whereas it is exp
further to amend th
of Criminal Procedure,
His Highness the Mala
is pleased to enact as
follows:-

Amendment of sub-section (1) of section 360.

In subsection (1) of
section 360 after the wo
if he appears by plea
the words "shall be sign
by the witness" shall b
inserted.

Statement of Objects and Reasons

The question of requiri
the witnesses to sign
their depositions was
raised by the Representat
Assembly in 1914 and
it is considered desir